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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[WT Docket No. 13-225; DA 13-1877]

Wireless Telecommunications Bureau Opens Docket to Seek Comment on DISH Network Corporation's Petition for Waiver and Request for Extension of Time

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission announces the opening of WT Docket No. 13-225 and seeks comment on a Petition for Waiver and Request for Extension of time filed by DISH Network Corporation (DISH Request), which would enable more flexibility that would serve and promote the underlying objectives of the Commission to utilize all of the AWS-4 spectrum more robustly.

DATES: Submit comments on or before September 30, 2013. Submit reply comments on or before October 10, 2013.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

You may submit comments, identified by WT Docket No. 13-225, DA 13-1877, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Federal Communications Commission's Web Site:** <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- **People with Disabilities:** Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: (202) 418-0530 or TTY: (202) 418-0432.

- Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW, CY-A257, Washington, DC, 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Matthew Pearl, Broadband Division, Wireless Telecommunications Bureau, at (202) 418-2607 or by e-mail at Matthew.Pearl@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s public notice released on September 13, 2013, DA 13-1877, that announced the opening of WT Docket No. 13-225 and that the Commission is seeking comment on a Petition for Waiver and Request Extension of Time filed by DISH Network Corporation (“DISH Request”). Copies of the DISH Request and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The DISH Request and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, D.C. 20554. The complete text is also available on the Commission’s Website at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-13-1877A1.docx. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418-7426, TTY (202) 418-7365, or via e-mail to bmillin@fcc.gov.

Summary

1. On September 9, 2013, the DISH Network Corporation, on behalf of its wholly-owned subsidiaries, Gamma Acquisition LLC and New DBSD Satellite Services G.P. (collectively,

DISH), filed a Petition for Waiver and a Request for Extension of Time (DISH Request) with the Wireless Telecommunications Bureau (Bureau). DISH filed its pleading as an attachment in the Universal Licensing System (ULS) to all of the AWS-4 licenses held by its wholly-owned subsidiaries, Gamma Acquisition LLC (Call Signs T060430001 - T060430176) and New DBSD Satellite Services G.P. (Call Signs T070272001 - T070272176). Specifically, DISH requests waiver of certain technical rules for the 2 GHz band at 2000-2020 MHz and 2180-2200 MHz (AWS-4 band) to permit operational flexibility to use the lower AWS-4 block, 2000-2020 MHz, currently designated as an uplink band, for either uplink or downlink operations. Pursuant to §§ 1.3 and 1.925(b)(3)(i) of the Commission’s rules, DISH seeks a waiver of § 27.5(j), which sets forth pairing requirements for AWS-4, and § 27.53(h)(2)(ii), which imposes out-of-band emission limits for AWS-4 operations in the 2000-2020 MHz band, as well as other technical AWS-4 rules “to the extent required.” DISH Request at 2 & n.2, 6 & n.11, 9-12. See 47 CFR 27.5(j), 27.53(h)(2)(ii); see also Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, WT Docket Nos. 12-70, 04-356, ET Docket No. 10-142, Report and Order and Order of Proposed Modification, 27 FCC Rcd 16102 (2012) (AWS-4 Report and Order), recon. pending. In addition, DISH requests an extension of the final build-out requirement for each of the AWS-4 licenses. Pursuant to § 1.946(e) of the Commission’s rules, DISH requests a one-year extension of the final construction requirement set forth for AWS-4 licenses in § 27.14(q). See 47 CFR 27.14(q). The purpose of this public notice is to announce the opening of a docket, WT Docket No. 13-225, to seek comment on DISH’s request and to establish the ex parte status of discussions related to the Petition for Waiver and Request for Extension of Time.

2. DISH, which is also the Mobile Satellite Service licensee in the 2000-2020 and 2180-2200 MHz bands, asserts that “[g]rant of the requested flexibility will serve and promote the underlying objectives of the Commission’s AWS-4 rules by enabling DISH to utilize all of the AWS-4 spectrum more robustly and by improving the extent to which the AWS-4 band coexists with

future licensees in the adjacent H and J Blocks.” See Service Rules for Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands, WT Docket No. 12-357, Report and Order, 28 FCC Rcd 9483 (2013) (H Block Report and Order); Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands; GN Docket No. 13-185, Notice of Proposed Rulemaking, FCC 13-102, rel. July 23, 2013 (AWS-3 NPRM). DISH further states that grant of such operational flexibility will permit AWS-4 operations in the 2000-2020 MHz block to be harmonized with operations in the adjacent PCS band, and H and J Blocks, thus potentially providing up to 30 megahertz of contiguous downlink spectrum. If the requested relief is granted, DISH commits to file, “as soon as commercially practicable but no later than 30 months after the grant of [its] petition . . . an election with the Commission stating whether it will deploy the 2000-2020 MHz band for downlink or uplink use.”

3. With regard to its request for extension, DISH asserts that a one-year extension of the final build-out requirement for AWS-4 is “necessary for DISH to update its network and device planning to accommodate the requested flexibility.” Among other things, DISH states that it will need to “initiate work for a new standard from the 3rd Generation Partnership Project (“3GPP”)[,] . . . restart work to design devices and base stations, and make substantial changes to its network planning.”

PROCEDURAL MATTERS

Ex Parte Presentations – Permit-But-Disclose Proceeding

4. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all

persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Comment Period and Filing Procedures

5. To allow the Commission to consider fully all substantive issues regarding the DISH Request in as timely and efficient a manner as possible, commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies. A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

6. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).
- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
 - For ECFS filers, in completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.
 - Paper Filers: the original and one copy of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, D.C. 20554. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class,

Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

- One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpiweb.com or (202) 488-5563 (facsimile); and (2) Matthew Pearl, Broadband Division, WTB, at Matthew.Pearl@fcc.gov or (202) 418-7247 (facsimile). Any submission that is e-mailed to Best Copy and Printing should include in the subject line of the e-mail: (1) the docket number of this proceeding, which is listed on the first page of this public notice; (2) the name of the submitting party; and (3) a brief description or title identifying the type of document being submitted (e.g., WT Docket No. 13-225, [name of submitting party], Notice of Ex Parte Communication).
- People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).
- Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW, CY-A257, Washington, DC, 20554.

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FEDERAL COMMUNICATIONS COMMISSION

**Blaise A. Scinto,
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